

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
Civil Action No. 1:24-cv-943

CIVIL RIGHTS CORPS,)	
Plaintiff,)	
vs.)	
)	
JUDGE DORETTA L. WALKER, in her)	No. 1:24-cv-943
official capacity, and CLARENCE F.)	
BIRKHEAD, in his official capacity,)	
)	
Defendants.)	
)	

**DEFENDANT BIRKHEAD'S MOTIONS TO DISMISS FOR
LACK OF SUBJECT MATTER JURISDICTION AND FAILURE TO
STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED**

NOW COMES Defendant Birkhead, in his official capacity, by and through undersigned counsel, and hereby moves the Court pursuant to Local Rule 7.3 and Fed. R. Civ. P. 12(b)(1) and (6) to dismiss the Plaintiff's complaint for lack of subject matter jurisdiction and failure to state a claim upon which relief can be granted. The complaint fails to allege any viable causes of action against Defendant Birkhead as set forth in the accompanying Brief filed herewith.

Defendant Birkhead respectfully requests the Court to dismiss the action, and for such other and further relief as this Court deems just and proper.

Respectfully submitted, this the 13th day of January 2025.

ATTORNEY FOR SHERIFF BIRKHEAD

/s/ Curtis Massey

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BIRKHEAD, in his official capacity,)	
)	
Defendants.)	

**[PROPOSED] ORDER GRANTING DEFENDANT BIRKHEAD'S
MOTIONS TO DISMISS**

THIS CAUSE being heard before the undersigned on the motions of Defendant, CLARENCE F. BIRKHEAD, in his official capacity as Sheriff of Durham County, by and through counsel, pursuant to Local Rule 7.3 and Fed. R. Civ. P. 12(b)(1) and (6) to dismiss the Plaintiff's complaint for lack of subject matter jurisdiction and for failure to state a claim upon which relief can be granted.; it appearing to the Court that good cause exists and that the Motion to Dismiss should be granted.

IT IS THEREFORE ORDERED that the claims against Defendant Birkhead are dismissed with prejudice.

This the _____ Day of _____, 2025.

UNITED STATES DISTRICT JUDGE FOR THE
MIDDLE DISTRICT OF NORTH CAROLINA.

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CERTIFICATE OF SERVICE

This is to certify that I have this date served Defendant Birkhead's MOTION TO DISMISS, BRIEF IN SUPPORT, and PROPOSED ORDER by electronic mail and by sending it to the following registered users by filing it with the court's electronic-filing system, pursuant to Rule 5(b)(2)(E) of the Federal Rules of Civil Procedure:

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P.O. Box 629
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This the 13th day of January, 2025.

ATTORNEY FOR SHERIFF BIRKHEAD

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